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DEC 21 2012

for the Northern Mariana Islands

By _____
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN MARIANA ISLANDS

**FRANK GIBSON, administrator for the
Estate of and as the Personal
Representative for VICENTE IGISOMAR
TEBIT and ROES I THROUGH X,**

Plaintiff,

v.

**HANWA HOTEL & RESORTS Co., Ltd.,
SAIPAN WORLD RESORT, WORLD
CORPORATION, and DOES I THROUGH
V,**

Defendants.

CIVIL CASE NO. 12-^{CV} 12- 0033

COMPLAINT

JURY TRIAL DEMAND

COMES NOW, the Plaintiff, Frank Gibson, administrator for the Estate of and Personal Representative for Vicente I. Tebit, by and through counsel, and alleges as follows:

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 as amended, Title I and IV of the Americans With Disabilities Act of 1990 and the Family Medical Leave Act to correct unlawful employment practices on the basis of race, national origin, color, disability, medical leave and retaliation. Vicente I. Tebit ("Mr. Tebit" or "Tebit") alleges that Hanwa Hotel &

1 Resorts Co., Ltd., Saipan World Resort, and World Corporation ("Defendants") subjected him
2 to discrimination on the basis of race, national origin, color, disability, medical leave and
3 retaliation.

4 **JURISDICTION AND VENUE**

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6 1. The United States District Court for the Northern Mariana Islands is the proper
7 venue for this action pursuant to 28 U.S.C. §§ 1331, 1343, 1391 (b)(1) and (b)(2), because this
8 is the District in which Mr. Tebit resided and in which a substantial part of the events or
9 omissions giving rise to the claims occurred.

10 2. This action is authorized and instituted pursuant to Title VII of the Civil Rights Act
11 of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"), 42 U.S.C. § 1981, Title I
12 and IV of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12111-12117, 12201-12213
13 and ("ADA") and the Family Medical Leave Act, 29 U.S.C. §§2601-2654 ("FMLA").

14 3. All conditions precedent to the institution of this lawsuit have been fulfilled.

15 4. On or about January 11, 2012, Mr. Tebit filed a Charge of Discrimination with the
16 Equal Employment Opportunity Commission ("EEOC") against the Defendants.

17 5. On or about September 26, 2012, the EEOC issued a Notice of Right to Sue the
18 Defendants based on the Charge of Discrimination to Mr. Tebit.

19 6. On or about November 30, 2011, Mr. Tebit made a complaint to the US
20 Department of Labor.

21 7. The employment practices alleged to be unlawful were committed within the
22 jurisdiction of the United States District Court for the District of the Northern Mariana Islands.
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PARTIES

8. At all times relevant hereto, Mr. Tebit resided in the CNMI and is a citizen of the United States.

9. Mr. Tebit was employed by or suffered to work for Defendants.

10. Mr. Tebit passed away on February 27, 2012.

11. On December 4, 2012 the Court granted Frank Gibson as Administrator of the Estate of Mr. Tebit.

12. Frank Gibson has authority to pursue the claims on behalf of the Estate of Mr. Tebit.

13. At all relevant times, Defendant, Hanwa Hotel and Resorts Co., Ltd. was a corporation organized under CNMI law doing business in the CNMI and in the jurisdiction of the United States District Court of the Northern Mariana Islands.

14. At all relevant times, Defendant, Saipan World Resort was a corporation organized under CNMI law doing business in the CNMI and in the jurisdiction of the United States District Court of the Northern Mariana Islands.

15. At all relevant times, Defendant, World Corporation was a corporation organized under CNMI law doing business in the CNMI and in the jurisdiction of the United States District Court of the Northern Mariana Islands.

16. At all times relevant hereto, Defendants were employers within the meaning of Title VII, the ADA and the FMLA.

17. At all relevant times, Defendants continuously employed fifteen (15) or more persons.

1 18. At all relevant times, Defendants continuously engaged in an industry affecting
2 commerce within the meaning of Title VII, 42 U.S.C. § 2000e(b), (g), and (h).

3 19. Mr. Gibson is ignorant of the true names and capacities of Plaintiffs named as
4 Roes I through X inclusive. Therefore, said Plaintiffs sue Defendants by such fictitious names.
5 Mr. Gibson reserves the right to amend the complaint to name the Roe Plaintiffs as they
6 become known. Mr. Gibson alleges that each of the Plaintiffs named as Roes I through X are
7 the heirs or lawful representatives of heirs of Mr. Tebit and Mr. Gibson will amend the complaint
8 to allege such responsibility when Mr. Gibson has ascertained the identity of the Roe Plaintiffs.
9

10 20. Plaintiff is ignorant of the true names and capacities of Defendants sued as Does I
11 through V, inclusive. Therefore, Plaintiff sues said Defendants by such fictitious names. Plaintiff
12 reserves the right to amend the complaint to name the Doe Defendants as they become known.
13 Plaintiff alleges that each of the Defendants named as Doe Defendants was in some manner
14 responsible for the acts and omissions alleged herein and Plaintiff will amend the complaint to
15 allege such responsibility when Plaintiff has ascertained the identity of the Doe Defendants.

16 21. It is further alleged on information and belief that the named and unnamed
17 Defendants in this complaint are alter egos, joint employers, and/or integrated enterprises of
18 each other.

19 22. All of the acts and failures to act alleged herein were duly performed by and
20 attributable to all Defendants, each acting as successor, agent, employee, or under the
21 direction and control of the others, except as otherwise specifically alleged. The alleged acts
22 and failures to act were within the scope of such agency and/or employment, and each
23 Defendant participated in, approved and/or ratified the other Defendants' unlawful acts and
24 omissions alleged in this complaint. Whenever and wherever reference is made in this
25 Complaint to any act by a Defendant or Defendants, such allegations and reference shall also

1 be deemed to mean the acts and failures to act of each Defendant acting individually, jointly,
2 and/or severally.

3 **STATEMENT OF CLAIMS**

4 **COUNT I**

5 **FAMILY MEDICAL LEAVE VIOLATION**

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7 23. The allegations contained in Paragraphs 1 through 20 are hereby
8 incorporated by reference.

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10 24. Mr. Tebit was a full-time employee who Defendants employed for over one year.

11 25. On or about May 2004, Defendants hired Mr. Tebit as a Special Projects
12 Assistant.

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14 26. During the course of his employment, Defendants promoted Mr. Tebit from
15 Special Projects Assistant to Assistant Human Resources Manager.

16 27. On or before August 2010, Mr. Tebit's wife was diagnosed with cancer and
17 needed medical treatment in Honolulu, Hawaii.

18 28. On or about August 2010, Mr. Tebit applied for 21 days of personal/vacation
19 leave and 43 days of leave under the FMLA to accompany his wife to Honolulu, Hawaii for
20 medical treatment.

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22 29. On or about August 2010, after Mr. Tebit applied for leave, Defendants told Mr.
23 Tebit to resign in order to protect his job.

24 30. Human Resources Manager, Miriam Seman, Director of Administration, Jake,
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1 and Special Project Manager, Jun Ham, promised Mr. Tebit that Defendants would reinstate
2 him to his position upon returning from Hawaii.

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4 31. In reliance on Defendant's promises and at their direction, Mr. Tebit submitted a
5 resignation letter effective September 9, 2010.

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7 32. Mr. Tebit informed Defendants that he would return from Hawaii after his wife's
8 medical treatment and intended at that time to return to his prior position.

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10 33. Defendants reassured Mr. Tebit that his job would be here for him upon his
11 return.

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13 34. Upon returning from Hawaii, on or about February 7, 2011, Mr. Tebit met with the
14 General Manager, Myung Wook Park regarding his re-employment.

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16 35. On or about February 7, 2011, General Manager, Myung Wook Park told Mr.
17 Tebit to meet with Human Resources Manager, Miriam Seman to get an application for
18 employment as Assistant Human Resources Manager.

19
20 36. On or about February 7, 2011, Mr. Tebit met with Human Resources Manager,
21 Miriam Seman to get an application to be reinstated to his position as Assistant Human
22 Resources Manager.

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24 37. On or about February 7, 2011, Defendants informed Mr. Tebit that Defendants
25 had hired Jun Ham as the Assistant Human Resources Manager.

38. On or about February 8, 2011, Mr. Tebit submitted his completed employment
application for Assistant Human Resources Manager.

40. Defendants informed Mr. Tebit that they would keep his application on file in case the position became available.

42. Defendants did not inform Mr. Tebit that the position became available again.

44. Defendants retaliated against Mr. Tebit by constructively terminating him for attempting to exercise his FMLA rights.

46. As a result of Defendants' actions, Mr. Tebit has suffered irreparable injuries, including but not limited to emotional distress, loss of pay, benefits and other economic losses and interest for all of which he should be compensated.

DISABILITY DISCRIMINATION

48. At all relevant times, Mr. Tebit was capable of performing the duties of Assistant Human Resources Manager at the Defendants' facilities.

1 49. Defendants constructively terminated Mr. Tebit because of his relation to a
2 person with a disability.

3 50. Mr. Tebit's constructive termination was not based on any medical justification
4 and was discriminatory as to Mr. Tebit.

5 51. Upon returning from Hawaii, Mr. Tebit attempted to be restored to his previous
6 position as Assistant Human Resources Manager at the Defendants' facilities.

7 52. During such time, Defendants continually, intentionally, and in a discriminatory
8 manner refused to allow Mr. Tebit to return to his former position because of his relation to a
9 person with a disability.
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11 53. Defendants did not rehire Mr. Tebit because of his relation to a person with a
12 disability.

13 54. Such adverse employment actions by Defendants were in violation of the ADA.

14 55. Following Defendants' termination of Mr. Tebit, Mr. Tebit was replaced by a non-
15 disabled individual.

16 56. As a result of Defendants' actions, Mr. Tebit has suffered irreparable injuries,
17 including but not limited to loss of pay, benefits and other economic losses, and other
18 compensatory damages for all of which he should be compensated.
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20 COUNT III

21 DISCRIMINATION BASED ON RACE AND NATIONAL ORIGIN

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23 57. The allegations contained in paragraphs 1 through 54 inclusive are hereby
24 incorporated by reference.

25 58. Since at least August 2010, Defendants engaged in unlawful employment
practices and in a pattern of such practices in violation of Title VII, 42 U.S.C. § 2000e-2.

1 59. Mr. Tebit is Carolinian.

2 60. Defendants' management team was predominantly Korean.

3 61. Defendants favored employees who were Korean.

4 62. Defendants discriminated against Mr. Tebit by convincing him to resign.

5 63. Defendants did not ask any employees other than Mr. Tebit to resign when they
6 requested to take leave.

7 64. Defendants discriminated against Mr. Tebit by not hiring him upon his return as
8 promised.

9 65. Defendants hired a Korean woman for the position of Assistant Human Resources
10 Manager instead of reinstating Mr. Tebit to his position.

11 66. Defendants certified that there was no qualified US citizen available to take the
12 job of Assistant Human Resources Manager.

13 67. Mr. Tebit was a US citizen qualified for the job.

14 68. The only difference between Jun Ham and Mr. Tebit was Mr. Tebit's national
15 origin.

16 69. Defendants subjected Mr. Tebit to unwelcome discrimination based on his race,
17 national origin and color.

18 70. The discrimination complained of affected a term condition and privilege of
19 employment.

20 71. Defendants knew or should have known of the discrimination in question and
21 failed to take prompt remedial action.

22 72. The effect of the practice complained of above has been to deprive Mr. Tebit of
23 equal employment opportunities and otherwise adversely affect his status as an employee
24 because of his race, national origin and color.
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1 73. The unlawful employment practices complained of above were intentional.

2 74. The unlawful employment practices complained of above were done with malice
3 or with reckless indifference to the federally protected rights of Mr. Tebit.

4 75. As a result of Defendants' actions, Mr. Tebit suffered irreparable injuries, including
5 but not limited to emotional distress, loss of pay, benefits and other economic losses, and other
6 compensatory damage for all of which he should be compensated.
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9 **PRAYER FOR RELIEF**

10 **WHEREFORE**, Mr. Tebit respectfully prays to this Court as follows:

- 11 A. Order Defendants to make whole Tebit by providing him appropriate back pay
12 with prejudgment interest, and front pay in amounts to be determined at trial,
13 and/or other affirmative relief necessary to eradicate the effects of Defendant's
14 unlawful employment practices;
- 15 B. Order Defendant to make whole Tebit by providing him compensation for past and
16 future nonpecuniary losses resulting from the unlawful practices complained as
17 described above, including, but not limited to pain and suffering, inconvenience,
18 loss of enjoyment of life, and humiliation, in amounts to be determined at trial;
- 19 C. Order Defendant to pay Mr. Tebit punitive damages for its malicious and/or
20 reckless conduct as described above, in amounts to be determined at trial;
- 21 D. For special and compensatory damages according to proof;
- 22 E. For reasonable attorney's fees incurred and costs of suit incurred;
- 23 F. For Liquidated Damages; and
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1 G. For such further relief as the court may deem proper.
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3 Submitted this 21st day of December, 2012.
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5 THOMPSON LAW OFFICE, LLC

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7 By: /s/ Colin M. Thompson, Esq.
8 **COLIN M. THOMPSON**
9 Attorney for Plaintiffs
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